

**TOWN OF NEWMARKET, NEW HAMPSHIRE  
TOWN COUNCIL REGULAR MEETING**

**June 17, 2015     7:00 PM**

PRESENT: Council Chairman Phil Nazzaro, Council Vice Chairman Gary Levy, Councilor Dale Pike, Councilor Amy Thompson, Councilor Toni Weinstein, Councilor Larry Pickering, Councilor Amy Burns

EXCUSED: None     ALSO PRESENT: Town Administrator Steve Fournier, Public Works Director Rick Malasky

**AGENDA**

Chairman Phil Nazzaro welcomed everyone to the June 17, 2015 Newmarket Town Council Meeting and called the meeting to order at 7:03 pm, followed by the Pledge of Allegiance.

Councilor Weinstein made a motion to seal the minutes of the Non-Public Sessions of May 20, 2015 and June 3, 2015. The motion was seconded by Vice Chair Levy.

Town Administrator Fournier polled the Council and the motion to seal the Non-Public minutes passed by a vote of 7-0.

**PUBLIC FORUM**

Chairman Nazzaro opened the Public Forum at 7:04 pm and asked if anyone from the public wished to speak.

As no one from the public came forward, Chairman Nazzaro closed the Public Forum at 7:04 pm.

**PUBLIC HEARING** - None

**TOWN COUNCIL TO CONSIDER ACCEPTANCE OF MINUTES**

**Acceptance of the Minutes of the Regular Meeting of June 3, 2015**

Councilor Thompson made a motion to accept the minutes of the regular meeting of June 3, 2015, and Councilor Burns seconded.

Changes/Corrections: Councilor Thompson requested a statement alleged to Police Chief Cyr on page 2 under Public Forum be clarified to read that he would only have a 2-week notice in the event of any resignations from his staff. She also recommended that the year "2015" be added to the date pay raises would be available. Councilor Thompson also corrected a typographical error in the spelling of "Nitronox" on page six under *Resolution #2014/2015-59*.

Town Administrator Fournier polled the Council and the minutes of the regular meeting of June 3<sup>rd</sup> were approved as amended by a vote of 6-0, with 1 abstention.

### **Acceptance of the Minutes of the Non-Public Meeting of June 3, 2015**

Vice Chair Levy made a motion to approve the minutes of the Non-Public Meeting of June 3, 2015, which was seconded by Councilor Weinstein.

Town Administrator Fournier polled the Council and the minutes of the Non-Public Meeting of June 3, 2015 were approved by a vote of 6-0, with 1 abstention.

### **REPORT OF THE TOWN ADMINSTRATOR**

Town Administrator Fournier first addressed the **Pay and Classification System**, which had been discussed at the last meeting. He stated that the process seems to have been suspended around 2005, which was the date of the last salary survey. He began with Section 6.2 of the Town Charter which outlined the creation of a personnel plan or policy, stating that the Town complied with this section and that the Council needed to create a personnel plan. He said the section that may be in question was the requirement of the classification and compensation of employees. He said that Article 3 stated that the Town Administrator and the Town Council should be responsible for a pay plan consisting of a minimum and maximum rate for each position, with the Town Administrator conducting a salary survey every three (3) years and recommending changes to the Council. He said that in addition, any merit increases would take effect July 1<sup>st</sup> and would be retroactive. He also stated that in future, all employee evaluations should be finished 30 days prior to the beginning of the fiscal year. Town Administrator Fournier said that he had instructed the Finance Director to provide a report to the Town Council in August for FY17 budget changes. The Finance Director would be taking all positions and comparing them to the labor market as well as communities of similar size to Newmarket, using an assessed value of the entire community along with socio-economic background.

Town Administrator Fournier next addressed a letter he had received inviting the Town to send one representative to a **Meeting with the County Commissioners** on July 16<sup>th</sup>. The subjects to be covered included Dispatch Services, Central Bidding/Procurement, and County Services offered and recommended. He said that he had discussed his representing the Town with Chairman Nazzaro, if there was no objection from the Council. Chairman Nazzaro said that other towns were sending their Town Administrators as representatives, and Town Administrator Fournier said that he would provide a report to the Council after the meeting. Vice Chair Levy asked Town Administrator Fournier to clarify the **routing of 911 calls** for the Council record. Town Administrator Fournier explained that when 911 is dialed the call first goes to the State System. He said that they take all calls and process them back through the County to our dispatch center in Newmarket. Vice Chair Levy asked what happened when 659-6336 was dialed and Town Administrator Fournier replied the calls went immediately to our local dispatch.

Town Administrator Fournier next reported on the **FY2015 Operating Budget** which had been 88% expended, slightly higher than the prior year. He stated that as of today it was estimated that they

would finish the fiscal year with a return of \$48,000 to the Fund Balance. As a comparison, he stated that the amount had been \$504,000 in 2012, \$518,000 in 2013, and \$130,000 in 2014. He said that the \$48,000 amount, which represented 0.8% return for this fiscal year, was a result of tighter budgeting and abnormal expenditures for snow. He next addressed the **Pedestrian Crossing near the School** saying that the School had asked for assistance in installing two (2) manually operated solar crossing beacons, as they would begin using the former Perkins building as a classroom. He said it was determined that the beacons should be installed, and that the School would purchase them and Public Works would install them cutting the project cost in half to about \$8,000.

Town Administrator Fournier next addressed two (2) items not in his written report. The first item concerned the switch to monthly billing for Water & Sewer to begin in August, which would allow the people to pay in smaller amounts. The second item related to the closing June 17<sup>th</sup> of all bids for the Downtown Pedestrian Improvement Project. He said that no bids had been received and he had conducted a conference call with DOT. He said they had explained that they were not surprised as the economy was doing better, and suggested re-bidding the project in the fall. Town Administrator Fournier said that Public Works Director Rick Malasky and the town engineer both confirmed they would get bids in November which could be started in spring of 2016. He said that if the costs for engineering and construction were to come in higher the project would be cut back or funds found to be reimbursed later by the State. Vice Chair Levy pointed out that the dollar amount the Town had come up with was less than half the original grant proposed, and suggested it might be worth contacting DOT in the event the bid comes in higher.

Discussion: Councilor Thompson asked whether the estimate for the safety crossing at the School included labor costs. Town Administrator Fournier replied that it did not but that they would probably be minimal. Councilor Thompson asked if the School would be reimbursing the Town or if the crossing was a safety issue. Town Administrator Fournier said that the Town would be doing the work anyway, and that this way they could make sure it was done correctly using the right safety specifications. Councilor Thompson then referred to the report of the Public Works Department on page 29, specifically the comment from Public Works Director Malasky that with no budget increases for paving, it would take two (2) more years to finish Ash Swamp Road. She also asked where they stood with the paving plan for the year to fix the roads. Town Administrator Fournier replied that the Public Works Department would not be submitting any proposals to the Town Council without a plan. Councilor Weinstein felt that taking four (4) years to finish one road was concerning, adding that the line item was cut every year. She questioned the Building Inspector's report noting the possibility of having Historic Preservation regulations, and asked if these recommendations would be made by the Council or the Planning Board. Town Administrator Fournier said they would come from the Planning Board to be approved by the Town Council. Councilor Weinstein commented on the Town Newsletter saying it was a good source of information and a good tool for the community. She then asked if a date had been set for the next public meeting for the bike path to be held in June and Town Administrator Fournier replied that no specific date had been set.

Chairman Nazzaro thanked Town Administrator Fournier for the update on the pay situation, and pointed out that step increases had not been part of the Town's policy for a long time. He said that two (2) years ago all comments regarding step increases had been removed from the Charter. He said that at

the May 20<sup>th</sup> meeting it was discussed that resources were available for pay increases, and that he wanted to make it clear to Town Administrator Fournier that the conversation had been going on for several months now. Vice Chair Levy raised a question regarding the Fire & Rescue Department asking if the Town was reimbursed when assisting other towns. Town Administrator Fournier replied that it depended on the type of call and that for fire it was usually a mutual aid situation. He added that some reimbursement was possible for Federal or State emergencies. Public Works Director Rick Malasky said that the State was called in for the brush fires in Hookset and Ossipee, and that he had received paperwork to apply for payment. He added that local communities helped each other and did not bill for services. Vice Chair Levy offered congratulations to the Fire & Rescue crew Bob Daigle, Garret Thompson, Tyler Dodds and Exeter paramedic Eric Jaeger, for delivering the baby on May 23<sup>rd</sup> in their ambulance. He also thanked Public Works Director Malasky for assisting with a sinkhole problem on New Road. He asked about scheduled tree work for Bay Road and other tree work Eversouce had identified in Town. Public Works Director Malasky replied that the work on New Road was completed at this time and Bay Road should be completed by tomorrow.

Councilor Thompson asked about electrical work being done on Ash Swamp Road, and Public Works Director Malasky replied that it was for the power line for the MacIntosh Well. Councilor Thompson asked for the cost of the negotiated purchase of a 140 square-foot permanent easement by the Town from Newmarket Mills on page 43. She next brought up the Shoulder Widening & Bike Path Project on page 44, specifically that the Town would need to provide an additional 20% match amounting to approximately \$40,000. She felt that as the project was originally billed as “no cost to the Town”, they needed to make the potential additional costs to taxpayers clear in a Public Hearing. Town Administrator Fournier said that nothing would be done without coming before the Council. Councilor Burns raised a question regarding the Economic Development Committee expense report on page 53, as it appeared they were over by 1,336%. Town Administrator Fournier said this was correct, and that a consultant had been hired by the committee to assist in reviewing zoning in the Town, and that the Planning Board had scheduled the date as right now. Councilor Pickering voiced concern over new sidewalks for Bennett Way, and said he did not like having to pay for something the developer should have included in the original plan. Councilor Weinstein commented that she had sensed a swell in public opinion regarding sidewalks and general connectivity to the Town in the Visioning Sessions she had attended.

Vice Chair Levy asked if there might be any way for the engineers of the Bike Path Project to reduce some of the cost due to the fairly significant increase. Chairman Nazzaro asked if in preparation to vote on the project, the Council could see what had caused the cost elevation and list any cost-saving measures being put in place to mitigate that. Town Administrator Fournier replied that this could be done, and stated that the extra \$40,000 was not available in the budget and the project would either have to be revised or not done. He pointed out that the costs were very preliminary at this point and were based on the original amount of the grant. Councilor Pike asked about the bridge bottleneck in the project, and felt it would be a shame to widen the road and stop at that point. Chairman Nazzaro pointed out that the road was State owned, and that the point would be to include this concern in the conversations with the State.

## **COMMITTEE REPORTS**

Councilor Burns reported on the Conservation Commission meeting of the prior week. She said that there had been public comment regarding some land around Moody Point, and that there were concerns voiced about runoff from building in the area and that abutters had not been notified in advance. She also asked about a gate along the river that was supposed to be open in spring/summer but was currently locked. Town Administrator Fournier said that the gate had recently been opened.

Councilor Pickering reported on the Budget Committee meeting of June 15<sup>th</sup>. He said that Mr. Dan Smith had been appointed as the Budget Committee representative to the CIP Committee and that Mr. Mike Lang would remain as the alternate. He said that Town Administrator Fournier had brought up the estimated \$48,000 left over from the current budget year, and that over-revenue estimates were approximately \$400,000 due to increases in building permits and motor vehicle purchases.

Vice Chair Levy gave a report on the Planning Board meeting of the prior week and said that they had discussed the Master Plan, and were continuing to look at the development of the Town. He said that Strafford Regional Planning was looking at all towns within the County, and there had been suggestions that Newmarket needed more affordable housing. He pointed out that a lot of the goals mentioned seemed to have already been met by the Town but they had been lumped in with other towns in the region. He said they did their best to make the plan more germane to Newmarket's needs, and that some of the goals were being redone. Vice Chair Levy felt it was important to look at the suggestions being made as ordinances and planning were predicated on the Master Plan, and that it was used as a tool to make policy. Councilor Pike stated that he had watched the tape of the meeting and felt that much of the information had been part of the Visioning Session he and Councilors Burns and Weinstein had attended. He said that the point was made that they needed to be aware of what the impact would be on taxes. He said he agreed with the importance of the Master Plan, and felt the fact that the original zoning changes did not line up with the Master Plan was the chief impetus for the Town in making changes to the original zoning proposal. Vice Chair Levy said it was important to get this right as changes were only made every ten (10) years. Chairman Nazzaro said that the Council had no say in the writing of the document and Town Administrator Fournier confirmed this.

## **OLD BUSINESS**

### **ORDINANCES AND RESOLUTIONS IN THE 2<sup>ND</sup> READING**

#### **Resolution #2014-15-64 The Purchase of a Chevrolet Pickup Truck for Public Works**

Councilor Weinstein made a motion to approve *Resolution #2014-15-64 The Purchase of a Chevrolet Pickup Truck for Public Works*, which was seconded by Councilor Burns.

Town Administrator Fournier stated that this was a replacement on schedule with the Capital Improvement Plan and that they had secured a State bid and received estimates for continuing maintenance costs. Public Works Director Malasky said that the current truck was a 1999 vehicle and that there was no interest from the dealership for a trade-in and it would go to State auction in Concord. He said that the truck was used every day for moving small equipment such as lawn mowers, mulch, ladders, etc. He said that he had added the cost to cover the purchase in the CIP budget last year, and

that the replacement vehicle was desperately needed. He said that the vehicle needed to be ordered and would take approximately 8-10 weeks, adding that the department had lost a couple of vehicles due to this year's inspections.

Discussion: Councilor Thompson asked about the vehicle usage, and Public Works Director Malasky replied that it was used Monday through Friday mostly in Town, and did not go home with anyone. Councilor Thompson asked why a new vehicle was being purchased and asked if used vehicles had been looked at. Public Works Director Malasky said they had looked at used vehicles in the past but were pricing to buy new and keep the truck for 16-20 years, as it was only used to move light small equipment. Vice Chair Levy asked that in future the use be explained in the narrative. He then asked how many trucks the Town had and how this compared to other communities. Public Works Director Malasky replied that in the past they had three 1-ton vehicles, two 2WD pickups for Buildings & Grounds, and two 4WD pickups. He said that from April to November there were 16 employees in Public Works Department, and that Buildings & Grounds was currently down from four vehicles to one 1-ton.

Town Administrator Fournier polled the Council and *Resolution #2014/2015-64* passed unanimously by a vote of 7-0.

#### **Resolution #2014-15-65 The Purchase of a 2015 Mahindra 1538 Tractor for Public Works**

Councilor Weinstein made a motion to approve *Resolution #2014-15-65 The Purchase of a 2015 Mahindra 1538 Tractor for Public Works*, which was seconded by Councilor Pike.

Public Works Director Malasky explained that the vehicle was used by Buildings & Grounds on all ballfields and parks and also for mowing, with occasional use by Public Works. He said that they typically put 300 hours/season on the vehicle at the going rate of \$85 per hour, and that the cost of the new tractor would be replaced in almost one (1) year. He said that the tractor was parked at this time as it was unsafe to drive on the road. He added that this vehicle was also a 1999 and would be worth \$2,000 now on trade-in. Public Works Director Malasky explained that the hydrostatic transmission was starting to go and that the amount to repair the vehicle would be huge. He said he had also looked at contracting the service out, but that the cost to purchase would pay for itself in one (1) season. He reported that he had looked at two makes, Kubota and Mahindra, and that the Mahindra was the cheapest and could be purchased nearby in Brentwood in the event parts were needed.

Discussion: Councilor Thompson stated that she understood that three (3) quotes were required but that only two (2) had been provided. Town Administrator Fournier replied that the requirement could be waived to cover three (3) types of vehicles rather than three (3) different vendors. Chairman Nazzaro pointed out that the quote received from Chappell Tractor was for two different vehicles. Councilor Pike asked if the current attachments could also be used with the new tractor and Public Works Director Malasky said that they could. Vice Chair Levy asked for the typical longevity of these vehicles and Public Works Director Malasky replied that after 5,000 hours they started having problems which amounted to approximately 150,000-160,000 miles. Vice Chair Levy then asked about the status of Kubota as the best in the line, and suggested perhaps purchasing the Kubota for a few

grand more. Councilor Pike pointed out that the difference was \$6,000. Public Works Director Malasky said that Mahindra was at the top of the line and Councilor Thompson said that they had a very good reputation. Public Works Director Malasky said that Mahindra was the number one selling tractor in the world at this time and that it would meet their needs for the money.

Town Administrator Fournier polled the Council and *Resolution #2014-15-65* passed by a vote of 7-0.

## **ORDINANCES AND RESOLUTIONS IN THE 4<sup>TH</sup> READING**

### **Resolution #2014/15-49 Town Council Rules for Proceedings**

Vice Chair Levy made a motion to approve *Resolution #2014/15-49 Town Council Rules for Proceedings* which was seconded by Councilor Weinstein.

Town Administrator Fournier read a document he had put together from emails of proposed changes by Councilors Thompson and Weinstein. He said the first proposed change was under Section 1 - Council Meetings on page 1, regarding the regular business meeting ending at 10 pm unless approved by the Chairman or the Council, and that Councilor Thompson had requested the removal of "Chairman". He said the second change was proposed by Councilor Weinstein to correct the reference under Agendas from Section 6 to Section 5. He said that Councilor Weinstein also proposed Section 6A-iv be corrected to "if an Ordinance is extensively amended after the *second* reading" rather than the first. A change was also suggested in Section 8 under Filing with the Town Clerk to add "or resolution" after ordinance. The last change suggested was by Councilor Thompson under Section 17 - Committees, to change "the Chairman shall have the power to appoint such advisory committees..." to "the *Council* shall have the power".

Discussion: Vice Chair Levy suggested making a change to Section 13 - Permission to Address the Council regarding the statement that speakers should be residents of the Town of Newmarket as that was not the way they currently conducted business. He said that people from other communities had come in with valid information to share, and he did not have a problem with it if the Council wanted to vote every time. Chairman Nazzaro asked if the people had an issue with the decision being at the discretion of the Council. Councilor Weinstein felt it should state "residents of Newmarket" and that the Council could always suspend the rules. Chairman Nazzaro asked if it would be clearer if they added that for any other speakers, the Council would have to suspend the rules. Vice Chair Levy next brought up Section 13-v which stated that the Citizen Forum should not be a 2-way dialogue. He felt common sense should be used and that they were not strictly follow the rule at this time. Chairman Nazzaro said that it was not done by matter of course. Councilor Pike agreed, and said there were certain situations when a pressing matter is brought up which needs to be addressed. Chairman Nazzaro felt this referred to someone raising an issue and demanding immediate answers from the Council, and that it actually protected the Council. Town Administrator Fournier explained that two (2) things traditionally happened at most Public Forums. He said that a 2-way dialogue is not allowed to stop any arguments and that comments from the Councilors are usually brought up later in the meeting. He said there was also a recent incident in Alton regarding public comment and that they needed to follow the rules more to the letter in future. Vice Chair Levy felt that if a Councilor wanted to quickly address an issue it would not be

inappropriate. Chairman Nazzaro said that the Council vote was unofficial rather than official and that the words “deviation from this requires suspension of the rules” should be added.

Chairman Nazzaro raised a concern under Council Meetings that the rules stated that Workshop Meetings should take the exact same order of business as regular meetings. Town Administrator Fournier suggested striking “Agendas will generally follow the order of business established in Section 6 below”. He then clarified a question from Councilor Weinstein about procedures regarding resolutions and ordinances. He said that Ordinances require a Public Meeting be held by State Law, and that some resolutions stating a policy might be required to go hold a public meeting by a particular grant. Councilor Weinstein said her question was who made the determination of what those circumstances might be. Town Administrator Fournier replied that it depended on the specific circumstances, and that it would either be the Council or State Law. Vice Chair Levy brought up the issue of a Councilor only asking one question at a time, and felt it had worked well to allow Councilors to ask their questions all together. Chairman Nazzaro said that the policy did specify “unless every Councilor has had the opportunity to speak”. Councilor Weinstein brought up the issue of not being required to appoint an alternate to the Budget Committee and felt that they should. Chairman Nazzaro asked Town Administrator Fournier to look into the issue before Budget Reviews started in the fall. Town Administrator Fournier said that the rules gave the Council permission to do something but did not dictate. He then asked if the Council was in agreement with making the changes he had received by the other Councilors.

Town Administrator Fournier polled the Council and the motion to approve *Resolution #2014/15-49 Town Council Rules for Proceedings* was approved as amended by a vote of 7-0.

**ITEMS LAID ON THE TABLE - None**

**NEW BUSINESS/CORRESPONDENCE**

**TOWN COUNCIL TO CONSIDER NOMINATIONS, APPOINTMENTS AND ELECTIONS – None**

**ORDINANCES AND RESOLUTIONS IN THE 1<sup>ST</sup> READING**

**Resolution #2014/2015-66 Authorizing the Town Administrator to Enter into an Agreement with Tri-State Curb for Installation of Granite Curb Stone for Bennett Way**

Chairman Nazzaro read *Resolution #2014/2015-66 Authorizing the Town Administrator to Enter into an Agreement with Tri-State Curb for Installation of Granite Curb Stone for Bennett Way*, in full.

Councilor Pickering asked if the Town still had the surplus of granite curbstone, and Town Administrator Fournier said they did not.

**CORRESPONDENCE/CLOSING COMMENTS**

Vice Chair Levy said he wanted to thank Public Works Director Malasky again for his superb service. Councilor Pickering said that he had recently read an article about the Town Clock saying the Town

Council had not yet made a decision as to giving funds to the Church to help with the steeple repair. He said that he thought the Council had made it quite clear at the meeting that the Town would only take care of the clock and its housing, and wondered if they were perhaps waiting for written verification. Town Administrator Fournier said that it would be up to the Council whether they wanted him to send a letter to the Church. Councilor Weinstein stated that the Council had not voted on anything and her understanding had been they would wait until the next fiscal year and decide through the budget process. Town Administrator Fournier said the Church had asked for a \$1,000 contribution from the Town. Chairman Nazzaro said that there were two (2) issues here, the first being that no funds were currently budgeted for the clock and that the conversation would occur this fall for FY17. He said that the second issue related to whether they, as a municipality, should be providing finances to a religious entity. Town Administrator Fournier said he believed the Department of Revenue would not allow the Town to give money to a church. Chairman Nazzaro felt that as they could not entertain the issue until the next budget cycle, the Town Attorney should verify the legality of the situation before the budget conversation. Town Administrator Fournier reminded the Council that the Town had a Capital Reserve Fund to maintain the clock, and that they needed to determine what portion of the renovation was the responsibility of the Town. Councilor Thompson said that though individual Councilors could contribute as residents, the Council was prohibited from contributing to the church. Chairman Nazzaro stated that they should first get clarity from the DRA and the Town Attorney. Vice Chair Levy asked if the holes patched on the roads were compressed in any way to give them more life, and Town Administrator Fournier said he would look into the issue. Councilor Pickering stated that he would not be attending the next Town Council meeting.

#### **ADJOURNMENT**

Vice Chair Levy made a motion to adjourn the meeting, which was seconded by Councilor Weinstein. The meeting was adjourned at approximately 8:44 pm.

Respectfully submitted,

Patricia Denmark, Recording Secretary